

**DEPARTMENT POLICY #205
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DEPARTMENT POLICY

POLICY # 205	SUBJECT: Confidentiality of Client Records
EFFECTIVE DATE: 4/4/89 Revised: 2/27/96	PAGE 2 of 15
AUTHORIZED SIGNATURE:	

I. PURPOSE

The purpose of this policy is to ensure that the handling of confidential client information in the Department of Services to Children, Youth and Their Families (DSCYF) is consistent with applicable statutes, regulations, and professional practice. This policy establishes guidelines to support appropriate use and disclosure of confidential client information in providing services to children, youth, and their families in the DSCYF integrated services environment.

II. POLICY

Services integration is based on a partnership among Department staff, other service providers, and families. It is the policy of DSCYF that:

In the process of developing, implementing and evaluating integrated service plans, Department staff and other service providers share information that is relevant, accurate and timely without any unnecessary barriers to information exchange.

Any necessary constraints on the process of information sharing are based in state or federal statutes and regulations or in professional practice standards. Service team members work together in good faith to establish acceptable procedures for sharing information that will further the goals of effective, efficient, and integrated service planning and delivery.

Clients and families are encouraged to participate in service planning, delivery, and evaluation. Clients and families are informed of their rights to consent to the release of information and to review information held in their Department files.

Department staff and service providers are informed of their responsibilities for maintaining the confidentiality of information which they encounter or to which they have access, for ensuring the appropriate control of information in planning

and implementing client services, and for remaining current in their knowledge of confidentiality policy and practices.

Department management assumes responsibility for providing continuing education and the necessary consultation services as staff carry out their responsibilities under this policy.

III. SCOPE

This policy applies to all staff of DSCYF and to all persons acting on behalf of the Department including service providers, contractors, volunteers, interns, students, researchers, auditors or any other person acting for DSCYF who may come in contact with client information.

This policy establishes guidelines for obtaining, maintaining, sharing, and releasing confidential information related to client services. It does not:

1. Prescribe the specific content or format for a client record or record system.
2. Prescribe client eligibility criteria, procedures for admission to provider services, or requirements for consent to interventions or treatment services.
3. Specify procedures for storage, security, or retention of written, electronic or other records.
4. Specify procedures for obtaining access to written or electronic records.
5. Provide detail on the composition or responsibilities of Division or Interdivisional Service Teams.

Other DSCYF policies, for example, Coordinated Case Planning, provide guidance in some of these areas.

Divisions should develop procedures as necessary for handling client information that are specific to their own operations. For example, Division procedures for record storage and security, for the content of records, and for maintaining records of information disclosure may be helpful.

Divisions shall participate in training staff on this policy and provide training on any procedures they implement. Flowcharts, checklists and case examples may be helpful for ensuring compliance with this policy and Division procedures.

IV. DEFINITIONS

- A. Consent to Obtain or Release Confidential Information: When releasing information to or requesting information from sources outside the Department or its provider network, written informed consent must be secured from the client and / or the minor's parent, guardian, or Educational Surrogate Parent as appropriate to the nature of the information requested or released.
- B. Confidential Information: Any item, collection or grouping of information which contains the name of an individual or any identifying number, symbol, other identifying characteristics, or any unique grouping of information which makes the individual as recognizable as if a name had been affixed.
- C. Custody: For purposes of this policy, custody refers only to those circumstances in which a court has given custody to DSCYF or a Division. Although a parent or guardian generally must consent to obtain or release information, in limited circumstances when a parent is unavailable or unwilling to consent, a representative of the custodial Division may consent to obtain or release information. Supervisory or legal counsel should be obtained before proceeding.
- D. Department: The Department of Services for Children, Youth and Their Families, or any of the Divisions.
- E. Educational Surrogate Parent: An Educational Surrogate Parent is a person appointed to represent a student who receives or may be in need of special education in all educational decision-making pertaining to the identification, evaluation, and educational placement of the student and the provision of a free, appropriate public education. An Educational Surrogate Parent may give consent for release of educational records only.
- F. Guardian: An individual who has been granted guardianship by a court. A guardian holds some or all of the rights of a parent and may give consent to the release of or request for information.
- G. Informed Consent: Voluntary agreement to an action to be taken following presentation of information and affirmation by the consenting party that the information and the action to be taken are understood. A signed consent form that is not completely filled out is null and void. Consent to the release of confidential information should be in writing and include the following elements:
1. Name of the person who is the subject of the information.
 2. Name of the person, program, or agency holding the information.
 3. Name of the person, program, or agency with whom the information will be shared.
 4. Reasons for sharing the information.

5. Description of type of information that will be shared.
 6. Signature of the person who is the subject of the information or, if the client is a minor, the signature of the parent or guardian, unless the signature of the client is required by law or regulation.
 7. Date the consent form is signed.
 8. A statement that the consent form is subject to revocation at any time by the subject (or parent / guardian or Educational Surrogate Parent) of the information.
 9. An expiration date for the consent form or an event (such as the end of a school year, a statutory review date, or completion of intervention) that will terminate the consent.
 10. A statement that the subject (or parent / guardian or Educational Surrogate Parent) of the information has a right to a copy of the consent form.
- H. Minor: An individual who has not yet reached his or her eighteenth birthday.
- I. Need to Know: No matter what information is available, staff will seek only that information that is necessary to carry out their specific job functions and only for periods of time of direct responsibility. In fulfilling a request for release of information, the holder of information has the responsibility to determine a recipient's need to know.
- J. Parent: A biological or adoptive parent whose parental rights have not been terminated. Either parent may consent to the release or obtaining of information. No one parent can cancel the consent of the other parent.
- K. Provider: Any agency, person, or program providing client services to the Department, through purchase or other agreement.
- L. Records: Any item, collection, grouping, or information that is maintained by DSCYF and contains personally identifiable information.
1. Primary Records: Primary records are all records originated by DSCYF or a contracted service provider. Primary records are the property of the Department.
 2. Secondary Records: Secondary records are all records that did not originate in DSCYF or a contracted service provider.

V. STAFF RESPONSIBILITIES IN HANDLING CLIENT INFORMATION

1 A. Responsibilities to Clients: Department staff shall inform clients that:

2 1. Information is necessary for service planning and implementation.
3 DSCYF staff will respect the privacy of clients and collect only
4 information that is necessary, relevant, accurate and of current value.
5 Clients and families are encouraged to participate in service planning, in
6 treatment or other interventions, and in decision-making regarding the
7 release of confidential information.

8 2. Records are the property of the Department and are maintained in a variety
9 of formats including written reports, files, and electronic information
10 systems.

11 3. Department policy requires specific procedures for the disclosure of
12 confidential information. A record of all instances of information release
13 must be maintained.

14 4. There are limitations to confidentiality such as the reporting and
15 investigation of abuse and neglect, medical emergencies, threats to
16 health and safety, and the disclosure of information necessary to establish
17 service eligibility, recover costs of services, or provide court-ordered
18 services.

19 5. Information may be shared within the Department and with
20 contracted service providers. Other uses of client information generally
21 require client consent to release information.

 6. Clients have the right to review information maintained in records about
 them, with certain limitations, and to make corrections to the record.

22 7. Staff are encouraged to use the Confidentiality Notice to Clients
23 (Appendix B) to document that they have informed clients how
24 information about them may be used by the Department.

25 B. Staff Responsibilities: DSCYF staff responsibilities regarding confidential
26 client information and records include:

27 1. Knowing the DSCYF Confidentiality Policy.

28 2. Completing Department and Division confidentiality training.

29 3. Signing the DSCYF Staff / Contractor Non-Disclosure and
30 Confidentiality Agreement (Appendix C).

31 4. Maintaining current knowledge of issues and procedures relating to client
32 confidentiality and informing the Department of any changes in statutes

and regulations or professional standards which may include implications for this policy or associated procedures.

5. Consulting with supervisors, Department or State Confidentiality Committees, or with legal counsel as questions arise regarding specific client confidentiality issues.

6. Obtaining the necessary consent when disclosing confidential client information or when requesting confidential information from sources outside the Department / service provider network.

7. Releasing only confidential information that is necessary, relevant, accurate and timely with regard to the purpose of the release.

8. Maintaining records of disclosure that accurately document the date, nature and purpose of each release, and the identity of the recipient of the information.

9. Seeking only the client information which staff have a legitimate need to know in fulfilling their job responsibilities.

10. Safeguarding the security of confidential records, client file storage areas, computer files and passwords, and working field files. Confidential records shall not be removed or taken from Department offices without supervisory authorization and the appropriate recording of location.

11. Accompanying a written disclosure of confidential information with a copy of the release including a written statement substantially as follows:

“This information has been disclosed to you from records whose confidentiality is protected by federal and state law. You are prohibited from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by federal or state regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.”

12. Ensuring, insofar as is reasonably possible, that confidential information sent from the Department reaches the intended recipient. Staff are advised to confirm the sending and receipt date or time by telephone and to include a cover sheet with the Department and Division name, address, telephone number, and a confidentiality notice reading substantially as follows:

“This information (this page and accompanying page[s]) is intended only for the use of the individual or entity to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the

1 message to the intended recipient, you are hereby notified that any
2 dissemination, distribution, or copying of this communication, or the
3 taking of any action in reliance on the contents of this information, may be
4 strictly prohibited. If you have received this information in error, please
5 notify us immediately by telephone and return the original to us at the
6 above address. Thank you.”

7 **VI. SHARING CLIENT INFORMATION AMONG DSCYF STAFF**

8 A. When DSCYF services are provided by only one Division, a Case
9 Manager or Division Service Team shall gather the child and family information
10 that is necessary and relevant to the provision of services to child and family.
11 Staff have responsibility for ensuring the accuracy and current value of
12 information collected for the record.

13 1. Information held by DSCYF is available to the Case Manager or Division
14 Service Team on a need to know basis.

15 2. Appropriate staff in the Division providing services will have access
16 to information required to carry out their roles and responsibilities.

17 3. Staff in the Department with oversight or support roles and
18 responsibilities, for example, fiscal, cost recovery, interdivisional review
19 groups, assessment, and monitoring and evaluation staff, will have access
20 to the specific information they need to carry out their job responsibilities.

21 B. Interdivisional Service Team members may have access to information across
22 Divisions on a need to know basis. In addition to the responsibilities of each
23 Division for the collection of information, when a client is provided with services
24 by more than one Division concurrently, there shall be an Interdivisional Service
25 Team comprised of DSCYF staff who are responsible for developing a unified
26 service plan.

27 1. In instances where information may be requested from a Division not
28 represented on an Interdivisional Service Team, team members will
29 consult with a member of that Division.

30 2. Appropriate staff in the Divisions represented on the Interdivisional
31 Service Team will have access to information required to carry out their
32 roles and responsibilities.

33 3. Staff in the Department with oversight or support roles and
34 responsibilities, for example, fiscal, cost recovery, interdivisional review
35 groups, assessment, and monitoring and evaluation staff, will have access
36 to the specific information they need to carry out their job responsibilities.

VII. SHARING INFORMATION WITH DSCYF CONTRACTED PROVIDERS

In some instances, DSCYF services are provided solely by Department staff. In the majority of cases, services are provided by a combination of DSCYF staff and contracted service providers. Both in the pre-admission planning of services and in the post-admission provision of services, sharing of information held by the Department with service providers may be necessary.

A. Division Case Managers or Interdivisional Service Teams are responsible for disclosing information. Only information which is necessary and relevant to making admission decisions or providing services to specific clients may be disclosed.

B. When an Interdivisional Service Team is considering sharing information originating in a Division not represented on the service team with a contracted service provider, team members will consult with a representative of that Division prior to the release of information.

C. In all cases, the release of alcohol / drug information from DSCYF to a contracted service provider requires a consent form signed by the client if age twelve or older. For youth under twelve years of age, the consent must be signed by a parent or legal guardian.

D. Following admission to a provider's services, information may be released to the service provider by a Division Case Manager or by the Interdivisional Service Team. Prior to admission to a contracted service, there is no relationship between the client and provider. Special care must be taken to ensure that only information which is necessary and relevant to the admission of a specific client is released.

1. When possible, a signed consent to release confidential information should accompany pre-admission reports sent to a potential provider.

2. Where it is not possible to obtain the signed consent of a parent or legal guardian:

a. and DSCYF or a Division is the custodian or required to provide services under commitment or other order of a Court, information may be shared without consent of the parent / legal guardian.

b. and the only information to be released is the educational record, an Educational Surrogate Parent, or the student, if age 14 or over, may sign the consent form.

- 1 3. In other cases where it is necessary to share pre-admission information
2 without a signed consent, all identifying information (name or a uniquely
3 identifying number such as a Social Security or Medicaid number) should
4 be removed from the record. If admission to a program is not made, all
5 material shared with the potential provider should be returned to DSCYF.

6 **VIII. SHARING INFORMATION OUTSIDE THE DSCYF NETWORK**

7 In providing comprehensive and integrated services to DSCYF clients, it is often
8 necessary to interact with agencies outside the Department and with service providers not
9 under contract to DSCYF.

10 A. To protect the confidentiality rights of clients, information may be shared with
11 outside agencies only with an appropriately executed consent form except when
12 statute stipulates otherwise. (See Section IX, Disclosing Information Without
13 Informed Consent.)

14 B. Only the Division that is the originator of the information of the primary record
15 may release to an outside agency. Even with a valid release, it is incumbent on
16 each Division to release only that information which is necessary and relevant to
17 the specific purpose of the consent form.

18 C. DSCYF is prohibited from releasing secondary information without appropriate
19 written consent. The release of secondary information is discouraged where it is
20 possible to substitute primary information or a summary of necessary background
21 information or to request the release directly from the originator of the report.

22 D. The Department supports and will follow the guidelines established in the
23 Interagency Confidentiality Agreement for Accessibility and Data Sharing
24 Between Participating Organizations. Procedures and forms authorized by this
25 agreement will be used in requesting / releasing information held by participating
26 agencies.

27 **IX. DISCLOSING INFORMATION WITHOUT INFORMED CONSENT**

28 Consent to release information is not required in the following circumstances:

- 1 A. State statutes require that relevant information be shared in situations of:
- 2 1. Reports or investigations of suspected child abuse or neglect, and
- 3 suspected impaired adult abuse or neglect.
- 4 2. Medical Emergencies.
- 5 3. Imminent threat or danger to the client or others.
- 6 B. Confidential client information is also provided for administrative and progress
- 7 monitoring purposes to:
- 8 1. The Foster Care Review Board for reviewing permanency planning.
- 9 2. Court Appointed Special Advocate (CASA or guardian ad litem) who
- 10 may inspect and copy any records relating to the child and his or her
- 11 family / guardian.
- 12 3. The Family Court or Foster Care Review Board for the review and
- 13 monitoring of decisions regarding the mixing of delinquent and non-
- 14 delinquent youth in residential settings.
- 15 4. The Interstate Compact Office of the applicable jurisdiction for monitoring
- 16 of interstate or intercountry cases.
- 17 5. The Department of Health and Social Services on a limited need to know
- 18 basis as specified in DSCYF's enabling legislation.
- 19 C. The transfer of educational records among school agencies is allowed without
- 20 signed consent.
- 21 D. Signed consents are not required for administrative audits, program evaluations,
- 22 or research where no personally identifiable information is disclosed or only
- 23 aggregate data are used.
- 24 E. Information may be obtained or released which is necessary to establish client
- 25 eligibility for services, to apply for benefits to which the client may be entitled,
- 26 and to recover costs of services provided.
- 27 F. Information may be released to comply with a subpoena or other valid court order.
- 28 Exceptions may include privileged communications of clients to licensed
- 29 physicians, psychologists and social workers, where client consent may be
- 30 required. Supervisory or legal consultation should be obtained prior to a response
- 31 to a subpoena or other court order.

X. DISCLOSING INFORMATION WITH INFORMED CONSENT

Except in circumstances noted in Section IX or other statutory or regulatory circumstances, DSCYF shall not release or knowingly permit the disclosure of any information, by any means of communication, to any external person or agency / organization except with written informed consent. Consent must be voluntarily given. Consent may be revoked at any time although this revocation does not invalidate actions that have already been taken based on the prior voluntary consent. There are some circumstances in which the release of information, even with consent, is strictly regulated. See Sections C and D.

A. In sharing information with cooperating agencies who have signed the Interagency Confidentiality Agreement for Accessibility and Data Sharing Between Participating Organizations, DSCYF staff will use the Interagency Consent for Release of Information Form.

B. A signed consent for release of information does not require DSCYF to release information. DSCYF staff must carefully consider the best interests of the client and family before complying with a request for information. In the event that the identity of the requesting person cannot be verified, it is appropriate to require a notarized consent form.

C. Release of alcohol / drug referral, diagnosis, or treatment information is strictly regulated in Federal statute.

1. This information may not be shared outside a Division or Interdivisional Service Teams except with informed consent to release signed by the client if age twelve or older, or by the parent or guardian if the client is younger than twelve.

2. This information can not be shared with the parent except with the prior consent of the client if age twelve or older.

3. Although some exceptions to these strict regulations exist, they are sufficiently complex that it is advisable that the Service Team obtain supervisory or legal consultation prior to any other release.

D. Information regarding HIV status, sexually transmitted diseases (STDs) and pregnancy is strictly regulated by Delaware statute. Supervisory or legal consultation is advised prior to any release of information.

1. Information that a person, for example, a child or family member, has been tested for HIV (or the result of a HIV test), may not be disclosed to anyone without a release signed by the person tested or the parent or legal guardian. Disclosure of HIV information without written consent is permitted for:

1 a. Emergency medical care and to health care workers under specified
2 circumstances.

3 b. Child abuse investigations.

4 c. Activities related to the control of sexually transmitted diseases
5 (STDs).

6 2. Information about the medical examination, consultation, or the treatment
7 of a minor twelve years or older for sexually transmitted diseases (STDs),
8 or for pregnancy-related conditions may not be released without the
9 written consent of the minor. Parental consent cannot be substituted for
10 the consent of the minor in these areas. Information may be released
11 without consent only for:

12 a. Activities related to control and treatment of sexually transmitted
13 diseases (STDs).

14 b. Public health reporting as required by law.

15 c. Child abuse investigations.

16 **XI. WHEN EXTERNAL DISCLOSURE IS NOT PERMITTED**

17 The following information may not be disclosed unless required by statute, requested by
18 subpoena or valid court order, or for criminal or civil law enforcement:

19 A. Information that would violate the confidentiality rights of others, reveal
20 a source protected by guarantee of confidentiality, or release of records sealed by
21 the court (for example, termination of parental rights or adoptions). Seek legal
22 consultation prior to any release of information.

23 B. Information compiled in reasonable anticipation of a court action or for
24 enforcement of criminal laws shall not be released except as directed by the
25 Attorney General's Office.

26 **XII. CLIENTS RIGHTS**

27 Clients have a right to privacy and the right to consent to the disclosure of confidential
28 information about themselves or their families.

29 A. Rights to Privacy: DSCYF has an ethical, professional and legal obligation to
30 protect clients from undue intrusion of privacy. Recorded and / or unrecorded
31 information received from clients, or regarding clients and families, must be
32 safeguarded. Consistent with State and Federal statute and regulations, DSCYF
33 staff will disclose information regarding clients and services when such sharing is

professionally judged to be in the best interests of the children in its care and there is a legitimate need and right to know.

B. Right to Be Informed About the DSCYF Confidentiality Policy: Clients shall be informed of the Department's Confidentiality Policy and of limits on the confidentiality of information.

C. Right to Informed Consent: When information is requested from or released to persons / agencies outside the Department and service provider network, informed consent must be obtained from the client or the client's parent or guardian in accordance with this policy.

D. Rights to Review Information: Clients (or in the case of a minor, a parent or guardian) have the right to examine information held about them in Departmental records within established limitations.

1. Clients have a right to review their records, including records documenting releases of information.

2. Clients must submit a written request to review records. The identity of the requesting person must be verified. Access to records must be granted within 45 days. A fee may not be charged for this review. A fee may be charged for copies of record material.

3. Prior to a client's review of his or her files, the record must be reviewed to determine that all information contained in the record is that of the client and that the material to be reviewed does not contain:

a. Information which, if released, would violate the confidentiality rights of others, including family members who have not given consent.

b. The identity of a source protected by a guarantee of confidentiality.

c. Records sealed by the Court.

d. Information judged by professional clinical staff to be detrimental to the well-being or best interest of the client if released. The basis for any decision to refuse access to information must be documented. Clients should be advised that such information may be disclosed to a qualified professional chosen by the client if requested in writing and accompanied by a release of information form.

4. When a client reviews DSCYF records, a DSCYF staff member shall be present to answer any questions.

1 5. If the client is deaf or blind, DSCYF must provide an interpreter. If
2 the individual has no written language or speaks in a language other than
3 English, DSCYF may provide an interpreter.

4 6. When a client disagrees with information in the record, the client may
5 provide a written statement to that effect and corrections of factual
6 material to be included as a permanent part of their record. If the
7 information has been released, the statement must be forwarded.

8 7. If information has been deleted from a file which is subsequently
9 shared with a client, the client should be informed of the deletion
10 and the reasons for it.

11 E. Minors may ask DSCYF staff to keep information concerning themselves from
12 their parents or guardians. This request must be honored in the case of treatment
13 of alcohol or drug abuse, STDs, and pregnancy-related conditions for clients age
14 twelve or over. DSCYF staff shall seek legal advice before granting or denying
15 such a request about any other information.

16 **XIII. NONCOMPLIANCE**

17 Failure to comply with this policy regarding the confidentiality of client information
18 could result in specific civil, criminal, and / or DSCYF penalties.

19 **XIV. IMPLEMENTATION**

20 This policy shall become effective upon the signature of the Cabinet Secretary. Any of
21 these policy guidelines which are found to be in conflict with federal or state laws shall
22 be null and void. All other procedural regulations shall remain operative.

APPENDIX A: REFERENCES

Delaware Statutes and Regulations

10 Del.C. 972(b) COURTS AND JUDICIAL PROCEDURE; THE FAMILY COURT OF THE STATE OF DELAWARE; Proceedings in the interest of a child

13 Del.C. 726(b) DOMESTIC RELATIONS; PARENTS AND CHILDREN; Custody proceedings; Hearings

13 Del.C. 924 DOMESTIC RELATIONS; ADOPTION; Minors; Confidential nature of Court records

13 Del.C. 925 DOMESTIC RELATIONS; ADOPTION; Minors; Inspection of Court records

13 Del.C. 1111 DOMESTIC RELATIONS; TERMINATION AND TRANSFER OF PARENTAL RIGHTS IN ADOPTION PROCEEDINGS; Court costs

14 Del.C. 4111 EDUCATION; GENERAL REGULATORY PROVISIONS; Disclosure of pupils' school records

16 Del.C. 903 HEALTH AND SAFETY; ABUSE OF CHILDREN; Reports required

16 Del.C. 905(b) HEALTH AND SAFETY; ABUSE OF CHILDREN; Duties of the receiving agency

16 Del.C. 908 HEALTH AND SAFETY; ABUSE OF CHILDREN; Evidence not privileged

16 Del.C. 5161 HEALTH AND SAFETY; MENTAL HEALTH PATIENTS' BILL OF RIGHTS; Rights of patients in mental health hospitals or residential centers

24 Del.C. 3913 PROFESSIONS AND OCCUPATIONS; CLINICAL SOCIAL WORKERS; Privileged communications

29 Del.C. 705(a) STATE GOVERNMENT; GENERAL PROVISIONS; Power of subpoena; administration of oaths or affirmation; penalties of noncompliance

29 Del.C. 9001(b) STATE GOVERNMENT; DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES; Intent and purpose

29 Del.C. 9003(6 and 16) STATE GOVERNMENT; DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES; Powers, duties and functions.

31 Del.C. 381, Art. III(b,c) WELFARE; CHILD WELFARE; Interstate Compact on the Placement of Children; enactment; CONDITIONS FOR PLACEMENT

31 Del.C. 3605(c) WELFARE; SPECIAL ADVOCATE PROGRAM; Court-appointed special advocates; Appointment

31 Del.C. 3607(f) WELFARE; SPECIAL ADVOCATE PROGRAM; Court-appointed special advocates; Rights

31 Del.C. 3610 WELFARE; SPECIAL ADVOCATE PROGRAM; Notice of hearings

31 Del.C. 3611 WELFARE; SPECIAL ADVOCATE PROGRAM; Acquisition of information by court-appointed special advocate

31 Del.C. 3808(3) WELFARE; FOSTER CHILD REVIEW ACT; Foster child review board-Duties of Executive Committee.

31 Del.C. 3812(a,b) WELFARE; FOSTER CHILD REVIEW ACT; Records of review

31 Del.C. 5203, Art. VII(a) WELFARE; Interstate compact on juveniles; COOPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES

Rule 503; Delaware Uniform Rules of evidence; Physician and psychotherapist-patient privilege

Handbook for K-12 Education. Delaware State Department of Public Instruction. Procedures for the Collection, Maintenance and Disclosure of Student Data. Revised September 1994

Federal Statutes and Regulations

Aid to Families with Dependent Children Program
42 U.S.C. §602(a)(9); 45 C.F.R. §205.50

Alcohol and Drug Abuse
42 U.S.C. §290ee-3 (drug abuse)
42 U.S.C. §290dd-3 (alcohol)
42 C.F.R. Part 2

Computer Matching and Privacy Prevention Act
5 U.S.C. §552a

Early Intervention Program for Infants and Toddlers
(Part H of the Education of the Handicapped Act)
20 U.S.C. §1480(2); 34 C.F.R. §303.460

Family Educational Rights and Privacy Act
("Buckley Amendment")
20 U.S.C. §1232(g); 34 C.F.R. Part 99

Federal Child Abuse and Prevention Treatment Act
42 U.S.C. §5101 et. seq.; 42 C.F.R.
§1340.14(i)

Foster Care and Adoption Assistance
42 U.S.C. §671(a)(8)

Freedom of Information Act
5 U.S.C. §552

Juvenile Justice & Delinquency Protection
42 U.S.C. §5676

Medicaid Program
42 U.S.C. §1396a(a)(7); 42 C.F.R. §431.300

Privacy Act
5 U.S.C. §552a

Runaway and Homeless Youth
42 U.S.C. §5731

Special Education (Part B, Individual with Disabilities Education Act)
20 U.S.C. §1412(2)(D); 20 U.S.C. §1417(c);
34 C.F.R. §300.129; 34 C.F.R. §300.560-300.576

Youthful Offender Act
19 U.S.C. §5036

Reference Materials

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Mark I. Soler, Alice C. Shotton, James R. Bell. *Glass Walls: Confidentiality Provisions and Interagency Collaborations*. San Francisco, California 1993.

APPENDIX B: CONFIDENTIALITY NOTICE TO CLIENTS

We want you to know why we collect information about you and your family, the steps we take to protect your privacy, and your rights to know what we keep in our records.

Why do we keep records?

- Delaware law authorizes the Department to collect and keep information to carry out our duties. This information is used for planning and providing services to you and your family.

Will this information be kept confidential?

- All Department staff sign a Non-Disclosure and Confidentiality Agreement that describes their duty to protect the privacy of client information.

Who else may learn this information?

- Division Case Managers / Service Teams or Interdivisional Service Team members working with you and staff with oversight or administrative duties are permitted to see information about you and your family.
- When you receive services from organizations with contracts with the Department, information will be shared with the provider's case managers.
- Except in certain situations, such as alleged child abuse or neglect, emergencies threatening to health and safety, establishment of service eligibility or recovery of the costs of services, compliance with court orders, your written consent or that of the child client is required for the Department to share information about you or your family with others.

Where and how is information stored?

- All written records are stored in secured files or storage areas when not in use.
- The Department has a computerized client information system, the Family and Child Tracking System (FACTS), on which data is stored. Electronic information is protected by established computer access and security procedures.

What are your rights?

- You have the right to find out what records we have about you or your family, to review these records (with certain exceptions), and to grant or revoke your permission for the Department to share this information with others outside DSCYF.
- If information in our files is erroneous or you disagree with file information, you may state your differences in writing, and we will include your statement in our records.

Do you have other questions?

- If you have other questions about what is or will be placed in our records about you or your family, please ask them of the Department person working with you.
- Upon request, we will provide you with a copy of our Confidentiality Policy.

I have read this page and I understand my confidentiality rights.

Child Signature

Printed Name

Date

Parent/Guardian Signature (circle one)

Printed Name

Date

Witness Signature

Printed Name

Date

2/96

APPENDIX C:

DSCYF STAFF NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

The undersigned acknowledges that the services the Department of Services for Children, Youth and Their Families (DSCYF) performs for its clients and all other parties involved are confidential. DSCYF and its clients depend upon Department employees and others who have access to Department information or are authorized to visit Department areas, to keep all information about clients and services confidential. By reason of your duties at DSCYF, you may come into possession, or become aware of, information concerning clients and/or their families. This agreement applies to information acquired in any way to include without limitation:

- Events or actions involving direct contact with clients/families or others.
- Learned by accessing an automated data system, client records to include documents and viewing, or causally observing, documents that may be displayed on computer screens or other electronic presentations.
- Orally through consultation with persons providing services or “overhearing conversations” in DSCYF areas.

By signing below you are indicating you understand and agree that:

- In compliance with Department policy, you are required to participate in Department training on confidentiality policies and procedures. The Department policy on the Confidentiality of Client Records can be accessed through Explorer on the S:\drive at: S:\Policy\Client\Confiden.205 or through Word by setting “Files of type” to “All Files”.
- To access the policy through the Intranet, click on the Internet icon on your state computer. That will bring you to the DSCYF site on the Intranet. Scroll down and click on Department Policies. From there scroll down to the Direct Client Service policy listing and click on Confidentiality of Client Records. The Intranet address for the policy is: <http://intranet.state.de.us/kids/confiden.htm>. The policy can also be found on the Internet at: <http://www.state.de.us/kids/pdfs/dsc205.pdf>. To read the policy on the Internet, you must have the Adobe Acrobat software on your computer. You can use tags on the DSCYF website to pull a free copy of Adobe Acrobat software off of the Internet. You are required to read and familiarize yourself with this policy and other appropriate Division confidentiality procedures prior to releasing any confidential information orally, in a written or automated format, or in any other form.
- You will only access, or seek access to, information in any form that is job-related and necessary for you to complete assignments given you by DSCYF supervisors or managers.
- You will not at any time, during or after your employment, duties or visitation at DSCYF, disclose any confidential information to any person except as permitted by statute, regulation, and/or as governed by policies of DSCYF or a written informed consent by the person(s) involved. Disclosure means the communication of information by any method including orally, by written document or through access to automated data systems.
- You will safeguard all client-related confidential information acquired orally or through automated or written documentation, so that no one is able to examine, acquire, or copy information unless authorized as indicated above.
- If you are an authorized user of any automated system containing confidential information, you will neither share your password or ID with anyone, nor will you keep a written record of your password or ID in an unsecured location where unauthorized individuals may access them.
- Employees are responsible for complying with all confidentiality policies in effect during their period of employment with DSCYF and / or during the period of their access to DSCYF information. All staff will be notified in writing or through training of revised or new confidentiality policies.

The penalty for unauthorized access, disclosure or misuse of confidential information will be based on progressive discipline guidelines in accordance with the Merit Rules. Criminal or civil prosecution may occur as applicable. If you have any questions regarding this document, please discuss fully with your supervisor before signing. This

signed agreement will be retained in your DSCYF personnel file. A copy of this signed agreement will be provided for your own records.

Signature

Date

Name (Print)

Supervisor or Witness

APPENDIX D: GENERIC CONSENT FORM

**DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES
AUTHORIZATION FOR RELEASE OF INFORMATION**

CLIENT _____ DATE OF BIRTH _____

I, _____ hereby authorize

_____ To Release Information TO: _____ To Obtain Information FROM:

The type of information to be disclosed is:

The purpose of this information disclosure is:

This authorization is valid until:

_____ six months from the date of signature

_____ the following event or date _____

This consent may be revoked at any time, except to the extent that action has been taken in reliance on it. The person completing this form has a right to receive a copy. This form is invalid unless all sections are completed.

Client signature (if applicable) Print Name Date

Parent, Guardian, Custodian (Circle One) Print Name Date

This information has been disclosed from records whose confidentiality is protected by federal and state law. Any further disclosure of it is prohibited without the specific written consent of the person to whom it pertains, or as otherwise permitted by federal or state regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

APPENDIX E: ALCOHOL AND OTHER DRUG CONSENT FORM



DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES
Delaware Youth and Family Center
1825 Faulkland Road, Wilmington, DE 19805

CONSENT FOR THE RELEASE OF CONFIDENTIAL ALCOHOL OR DRUG TREATMENT INFORMATION

I, _____, authorize
(Print name of participant)

(Name of person or organization)

to disclose to / receive from _____ the
(Name of person or organization)

following information _____
(Nature of the information, as limited as possible)

The purpose of the disclosure authorized herein is to: _____

(Purpose of disclosure, as specific as possible)

I understand that my records are protected under the federal regulations governing confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, and cannot be disclosed without my written consent, unless otherwise provided for in the regulations. I have the right to receive a copy of this form after completing it. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it, and that in any event, this consent expires automatically as follows:

(Specification of the date, event, or condition upon which this consent expires)

Signature of Participant

Print Name of Participant

Date

Signature of Parent or Guardian

Print Name of Parent or Guardian

Date

PROHIBITION ON REDISCLOSURE OF INFORMATION CONCERNING CLIENT IN ALCOHOL OR DRUG ABUSE TREATMENT

This notice accompanies a disclosure of information concerning a client in alcohol/drug abuse treatment, made to you with consent of such a client. This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.